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November 4, 1997

Hand Delivered

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

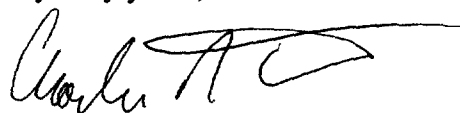
Re: MM Docket No. 97-122; File Nos. BRFT-970129YC, BRFT-970129YD

Dear Mr. Caton:

Transmitted herewith, on behalf of Gerard A. Turro and Monticello Mountaintop Broadcasting, Inc., are an original and six copies of their Joint Motion for Protective Order in the above-referenced proceeding.

In the event there are any questions concerning this matter, please communicate with this office.

Very truly yours,



Charles R. Naftalin

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

In re)	
)	
GERARD A. TURRO)	MM Docket No. 97-122
)	
For Renewal of License)	File Nos. BRFT-970129YC
For FM Translator Stations)	BRFT-970129YD
W276AQ(FM), Fort Lee, NJ, and)	
W232AL(FM), Pomona, NY)	
)	
MONTICELLO MOUNTAINTOP)	
BROADCASTING, INC.)	
)	
Order to Show Cause Why the)	
Construction Permit for FM Radio)	
Station WJUX(FM), Monticello, NY,)	
Should Not Be Revoked)	
To: Honorable Arthur I. Steinberg		
Administrative Law Judge		

JOINT MOTION FOR PROTECTIVE ORDER

Gerard A. Turro and Monticello Mountaintop Broadcasting, Inc. ("MMBI"), by their attorneys, pursuant to Section 1.313 of the Commission's Rules, hereby request that the Presiding Judge exclude the direct case witnesses of the Mass Media Bureau ("Bureau") and Universal Broadcasting of New York, Inc. ("Universal") in the above-captioned proceeding from any knowledge of the direct cases of Mr. Turro or MMBI, which are due to be filed on November 10, 1997, and that such witnesses not otherwise be informed about the contents of the direct case exhibits of Mr. Turro and MMBI. Mr. Turro and MMBI request that the Judge issue a protective order to this effect.

On October 27, 1997, the Bureau and Universal jointly filed their direct case exhibits.

Among the materials contained therein are statements from the following witnesses: Jules Cohen, Wilson La Follette, Vincent D. Luna, William Gaghan, and Serge Loginow, Jr. The statements of these witnesses, at least in part, are directed to issues of material fact which will be addressed in witness statements to be filed by Mr. Turro and MMBI on November 10, 1997. As required in the Hearing Designation Order, Order to Show Cause and Notice for Opportunity for Hearing, FCC 97-137 (released April 18, 1997), the Bureau and Universal have the initial burden of going forward with the introduction of evidence in this proceeding (and, with respect to MMBI, the ultimate burden of proof).

Mr. Turro and MMBI have the right to present evidence in their defense in their direct case exhibits to be filed on November 10, 1997, and they have the right to cross-examine the witnesses of the Bureau and Universal with respect to the testimony they have offered. Pursuant to Rule 615 of the Federal Rules of Evidence, Mr. Turro and MMBI would have the right to exclude all of the above-named witnesses from hearing the testimony of the witnesses to be offered by them, and to exclude them from examining the exhibits which would be introduced by those witnesses. Given that the conduct of this case will rest substantially upon the introduction of written statements and exhibits in advance of the commencement of the live hearing, the functional equivalent of excluding the Bureau and Universal witnesses is for the Judge to direct that the parties ensure that none of these witnesses be permitted to review the direct case submissions of Mr. Turro or MMBI and that such evidence not be made known to them.

Therefore, Mr. Turro and MMBI respectfully request that the Judge order that the Bureau and Universal take all possible steps to ensure that the witnesses they have named in their joint direct case be excluded from any knowledge of the substance of the evidence to be submitted by

Mr. Turro and MMBI.

MONTICELLO MOUNTAINTOP
BROADCASTING, INC.

By: *James P. Riley (by CRN)*
/s/ James P. Riley

Fletcher, Heald & Hildreth, P.L.C.
1300 North 17th Street
11th Floor
Rosslyn, Virginia, 22209
(703) 812-0400

Its Attorneys

November 4, 1997

Respectfully submitted,

GERARD A. TURRO

By: *Alan Y. Naftalin (by CRN)*
/s/ Alan Y. Naftalin

By: *Charles R. Naftalin*
/s/ Charles R. Naftalin


Koteen & Naftalin, L.L.P.
1150 Connecticut Avenue, N.W.
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His Attorneys

CERTIFICATE OF SERVICE

I, Barbara Frank, a secretary in the law offices of Koteen & Naftalin, L.L.P., hereby certify that true copies of the foregoing "JOINT MOTION FOR PROTECTIVE ORDER" have been served upon the following by first-class United States mail, postage prepaid, this 4th day of November 1997:

- | | |
|---|--|
| <p>* The Honorable Arthur I. Steinberg
Administrative Law Judge
Federal Communications Commission
2000 L Street, N.W., Room 228
Washington, D.C. 20554</p> <p>* Alan Aronowitz, Esq.
Hearing Branch
Enforcement Division
Federal Communications Commission
2025 M Street, N.W., Room 7212
Washington, D.C. 20554</p> <p>* Stephen Barone
Complaints and Investigations Branch
Mass Media Bureau
Federal Communications Commission
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|---|--|


/s/ Barbara Frank
Barbara Frank

* By Hand Delivery